



communications to court
Tzvi Sebwrow to: dan.robinson

09/03/2014 05:07 PM

From: Tzvi Sebwrow/NYSD/02/USCOURTS
To: dan.robinson@philosophy.ox.ac.uk

Professor Robinson,

I just wanted to make clear that any communications sent to the Court will be placed on the Court's public docket.

Thanks

Tzvi Jakob Sebwrow
Law Clerk to the Honorable Richard M. Berman
United States District Court for the Southern District of New York
500 Pearl Street, Room 1650
New York, New York 10007
(212) 805-6721

USDC SDNY
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Date:

9/4/14

Richard M. Berman

Richard M. Berman, U.S.D.J.



RE: communications to court

Dan Robinson

to:

Tzvi_Sebrow@nysd.uscourts.gov

09/03/2014 06:08 PM

Hide Details

From: Dan Robinson <dan.robinson@philosophy.ox.ac.uk>

To: "Tzvi_Sebrow@nysd.uscourts.gov" <Tzvi_Sebrow@nysd.uscourts.gov>

History: This message has been forwarded.

Dear Mr. Sebrow,

Thank you for apprising me of this. Nonetheless, please do forward the following to the Judge.

To: The Honorable Judge Richard Berman

Dear Judge Berman,

With thanks to your assistant for providing an e-mail address, I wish to offer a few lines that may be helpful as you consider the matter of Dinesh D'Souza. I have not discussed this with him, nor have I told anyone of my intention to write to you. My decision to do so – constrained by considerations of impropriety – has been governed by the recognition that all judgment is refined and sharpened by information and that, in this case, I was in a position to share several relevant observations.

I have known Mr. D'Souza for twenty years. Our contacts have been sporadic and always on matters of an academic and intellectual nature. He has sought my counsel on certain narrowly philosophical issues, on aspects of the American Founding, on the grounding of our moral assessments – all issues to which all too many of my 77 years have been devoted.

The figure of 77 years matters here. More than 50 of them have found me teaching students, guiding young scholars and discovering the difference between the “pro forma” and that authentic attempt to get to the heart of things with nothing less than a cultivated judicial disinterest -- chips falling as the fates and the gods would have it.

Given the sorry state that found his enthusiasm trumping his reason, Dinesh D'Souza has made it seemingly quirky for me to speak of his intellectual integrity; but speak I must. There has never been a moment's doubt, in the dozens of hours he has sought my advice, about his unflagging commitment to understand an issue before forming a warranted course of action. I suspect that his now notorious and pathetic attempt to circumvent strictures regarding campaign contributions might well have arisen from just this careful weighing of conflicting moral precepts.

Aristotle argued convincingly that our vices tend to be the extreme form of what, within the boundaries of cool reason, are virtues. I might offer in evidence of Aristotle's thesis D'Souza's actions in support of his preferred candidate. He had nothing whatever to gain personally. Relatively, the sums were marginal. Strategically, his candidate's chances were on a par with being struck by lightning. Thus, the category under which one might reasonably subsume D'Souza's actions would seem to be "rhetoric"; making a statement intended to move others, if only by a futile gesture. I note, too, that *scale* matters: How healthier would our political world be if all corruptions of the system faced a \$20,000 ceiling!

The history of so-called "exemplary" justice is an embarrassment. Recall that in the time of Elizabeth I, 180 separate infractions carried the death penalty. If that failed to transform humanity into sainthood, perhaps some other nostrum is in order.

For me, "exemplary" justice is effectively punitive when it draws attention to what is shameful to an offender with a developed capacity for shame. When Hamlet asks his mother, "Oh shame, where is thy blush?", he seeks to tap what gives abstract moral principles a human form. D'Souza has been shamed in his own eyes. I know this fellow. The punitive deed has been done. Anything further, at least by my poor lights, moves in the direction of abuse.

With my thanks and most respectfully yours,

Dan Robinson

http://www.philosophy.ox.ac.uk/members/senior_research_fellows/dan_robinson

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